

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES BRADY and PATRICIA BRADY,

Plaintiffs,

Civ. No. 12-77-PA

TEMPORARY RESTRAINING ORDER

v.

WELLS FARGO BANK N.A. AS
TRUSTEE FOR THE CERTIFICATE
HOLDERS OF BANK OF AMERICA
ALTERNATIVE LOAN TRUST 2005-
12 MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2005-12,
and RECONTRUST COMPANY, N.A.,

Defendants.

PANNER, J.

Plaintiffs seek an ex parte temporary restraining order to enjoin the foreclosure sale of their house. Plaintiffs allege the house is scheduled for a foreclosure sale on January 23, 2012 and defendants have not complied with the legal requirements for a valid non-judicial foreclosure. Specifically, plaintiffs allege defendants failed to record all assignments of the trust deed in the county land records prior to initiating the foreclosure

proceedings. In Oregon, a party initiating non-judicial foreclosure proceedings must record all assignments of the trust deed. ORS 86.735(1); Hooker v. Northwest Trustee Services, Inc., 2011 WL 2119103, *3 (D. Or. May 25) (citing Burgett v. MERS, 2010 WL 4282105, at *2 (D. Or. Oct. 20) and In re McCoy, 2011 WL 477820, at *3-4 (Bankr. D. Or. Feb. 7)).

Because of the alleged imminent foreclosure sale, and because plaintiffs allege specific facts that, if true, create serious questions as to whether defendants complied with the recording requirements of the Oregon Trust Deed Act, I grant plaintiff's request for a temporary restraining order (#3).

Defendants, and their officers, agents, etc..., and other persons in active concert or participation with defendants, who receive actual notice of this order, are restrained from conducting a foreclosure sale for the following property: 202 Oaklawn Avenue, Ashland, Oregon, from this day until February 1, 2012, at 5:00 p.m. This court will hold a hearing on whether to issue a preliminary injunction at 10:30 a.m. on February 1, 2012, in Medford.

IT IS SO ORDERED.

DATED this 19 day of January, 2012 at 9 o'clock AM.



OWEN M. PANNER
U.S. DISTRICT JUDGE